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SANDERS N. HILLIS. ESQ.  
BRINKS HOFER GILSON & LIONE  
ONE INDIANA SQUARE  
SUITE 2425  
INDIANAPOLIS, IN 46204

EXAMINER

CUNNINGHAM, TERRY D

ART UNIT

PAPER NUMBER

2816

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/748,609

Applicant(s)

STANLEY, GERALD R.

Examiner

Terry D. Cunningham

Art Unit

2816

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on 24 February 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Reopen Prosecution***

This paper is in response to the Appeal Brief filed 16 June 2003. Prosecution on the merits is hereby reopened for the purposes of ensuring that all the requirements for Appeal are met and for introducing new grounds of rejection.

### ***Summary of changes in this action***

1. While Examiner still deems the prior rejection in view of Cavigelli to be proper, it is seen that the following rejection is more appropriate.
2. A rejection under 35 U.S.C. §112, second paragraph, is added.

### ***New Matter***

The amendment filed 18 November 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is the amendment to page 10 and new Fig. 6.

Examiner has fully considered Applicant's remarks for the above rejection and has not found them to be persuasive for the reasons stated of record.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Drawings***

The drawings are objected to because Fig. 6 is inconsistent with the disclosure therefor. The new disclosure for Fig. 6 expressly states that the "low-pass filter" has "a feedback demodulation filter" and an isolated integrator frequency-rejecting network". However, nowhere is the circuit of Fig. 6 seen to include the "isolated-integrator band-reject filter".

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9-12 are rejected under 35 U.S.C. § 112, first paragraph, as based on a disclosure which is not enabling. The connection between the output of the "demodulation filter" and the "feedback control loop" is deemed critical or essential to the practice of the invention, but is not included in the claim(s). An arrangement lacking this feature is not enabled by the disclosure since it cannot be understood from the specification how the circuit will operate without such. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Examiner has fully considered Applicant's remarks for the above rejection and has not found them to be persuasive for the reasons stated of record.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 and 9-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1-6 and 9-21, the phrase “isolated-integrator band-reject filter” is not understood. Although the specification states that the circuit of Fig. 1 is an “isolated-integrator band-reject filter”, nowhere is the specification seen to define what is meant by this phrase. Further, since this phrase would not be seen by one skilled in the art as being a term of art, the metes and bounds thereof cannot be determined.

In claim 9, it is not understood how the circuit can operate without the above discussed “critical feature”.

Claims 10-12 are rejected for the reasons discussed above with claim 9.

Examiner has fully considered Applicant’s remarks for the above rejection and has not found them to be persuasive for the reasons stated of record.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 2, 4, 5, 13-18, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cavigelli (USPN 5,635,871). Cavigelli discloses, in Figs. 1 and 12a, a circuit comprising: “a low-pass filter circuit (all of Fig. 1 and 12a)”; and a “band-reject filter (202 of Fig. 12a)”. However, Cavigelli does not expressly disclose any specific details for “band-reject filter” 202. Applicant’s prior art Fig. 1 discloses an “isolated-integrator band-reject filter” having the advantage of low cost and unwanted noise suppression. It would have been obvious

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for one skilled in the art to use the specific “isolated-integrator band-reject filter” in Applicant’s prior art Fig. 1 for the broad “band-reject filter” 202 of Cavigelli for the expected advantage of low cost and unwanted noise suppression.

***Allowable Subject Matter***

Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claim 6 would be allowable because none of the circuit prior art references are seen to disclose the specific arrangement with the specific connections and elements recited for the “feedback control loop”.

Due to the present lack of definiteness and/or enablement in claims 9-12 and 19, allowable subject matter cannot be determined.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terry Cunningham whose telephone number is 703-308-4872. The examiner can normally be reached on Monday-Thursday from 7:30 to 6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Timothy P. Callahan can be reached on 703-308-4876. The fax phone numbers for Technology Center 2800 are 703-872-9318 for Before Final communications and 703-872-9319 for After Final communications. Please note, any faxed paper clearly stating **DRAFT** or

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**PROPOSED AMENDMENT** at the top will be forwarded directly to the Examiner. All others will be treated as a formal response and acted upon accordingly.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-308-0956.

TC  
July 14, 2003

  
Terry D. Cunningham  
Primary Examiner  
Art Unit 2816